

MEMORANDUM TO: All Members of the Metropolitan Council

FROM: Donald W. Jones, Director  
Metropolitan Council Office

DATE: **June 20, 2006**

RE: **Analysis Report**

Balances As Of:	<u><b>6/14/06</b></u>	<u><b>6/15/05</b></u>
<u>GSD 4% RESERVE FUND</u>	*\$1,679,564	\$12,397,245
<u>CONTINGENCY ACCOUNTS</u>		
GSD	- 0 -	\$ - 4,608
USD	\$50,000	\$50,000
<u>GENERAL FUND</u>		
GSD	\$26,413,198	\$28,815,661
USD	\$8,770,800	\$5,003,020
<u>GENERAL PURPOSE SCHOOL FUND</u>	\$17,566,775	\$25,250,424

\* Assumes estimated revenues in fiscal year 2006 in the amount of \$21,037,500

**- BILL ON PUBLIC HEARING -**

**ORDINANCE NO. BL2006-1090** (MCLENDON) – This ordinance is the operating budget of the Metropolitan Government for the Fiscal Year 2006-2007. The proposed budget filed by the mayor provides for the following proposed funding:

• General Fund of the General Services District	\$ 678,370,200
• Schools Fund of the General Services District	563,230,100
• Schools Debt Service Fund	59,330,200
• Debt Service – General Services District	<u>82,846,700</u>
<b>TOTAL GENERAL SERVICES DISTRICT BUDGET</b>	<b>\$1,383,777,200</b>
• General Fund of the Urban Services District	\$ 103,554,300
• Debt Service – Urban Services District	<u>18,723,000</u>
<b>TOTAL URBAN SERVICES DISTRICT BUDGET</b>	<b>\$ 122,277,300</b>
<b>TOTAL OPERATING BUDGET</b>	<b>\$1,506,054,500</b>

The substitute budget adopted by the council for the current fiscal year is \$1,440,369,800. The mayor's proposed budget is an increase of \$65,684,700 or 4.6%.

No property tax increase is included in order to fund this budget. There is a proposed shift of \$0.07 in the existing property tax rate from the General Services District Debt Fund to the General Fund of the General Services District. This shift will have no impact on the total property tax rate of the GSD or USD.

\$10,035,900 is appropriated from the total GSD unappropriated fund balance, compared to a total of \$10,883,900 in the current year's budget. For the total USD unappropriated fund balance, \$8,547,900 is appropriated for use, compared to \$3,951,300 in the current year's budget.

The proposed budget funds the second year of a new pay plan that provides a 2% across the board pay raise for Metro employees, with an additional 2% planned for next fiscal year. \$15,599,100 is included in the GSD General Fund and \$2,388,900 in the USD General Fund for these pay plan improvements. Revenue growth is currently expected to be sufficient to fund the 2% increases in these two years.

The proposed budget also includes negative expenses in order to balance the total budget requirements. In addition to a negative expenditure of \$14,651,000 in the GSD for budget adjustment savings, which is the same as the current fiscal year, the proposed budget includes negative expenditures of \$6,000,000 for E-procurement savings and \$1,000,000 for maintenance audit savings. The USD includes a negative expense of \$2,264,700 for budget adjustment savings, compared to \$2,650,000 in the current fiscal year.

Internal service fees for the departments of finance, human resources, general services, and information technologies are included in this budget as part of the ongoing effort to implement full cost recovery within Metro government. These fees appear as increased expenditures in the operational budgets of various departments, paid to these four departments in their various internal service funds.

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**ORDINANCE NO. BL2006-1090** (continued)

This internal service fee structure is consistent with the requirements of Federal OMB Circular A-87. This establishes principles and standards for determining costs for Federal awards carried out through grants, cost reimbursement contracts, and other agreements with State and local governments. The purpose is to establish a process whereby central service costs can be identified and assigned on a reasonable and consistent basis.

There is a new line item named "Insurance Premiums" in most departmental budgets in order to fund a centralized "Safety and Risk Management Fund". Proceeds from these premiums would be used to establish a new central organization for safety coordination, risk management, and claims. Transfers from this fund would also be used for other funds such as Self-Insured Liability, Property Insurance, Commercial Liability Insurance, etc. These transfers would replace the direct appropriations received by these funds in previous years. The council office would point out that the actual "Safety and Risk Management Fund" was apparently omitted by error from this ordinance.

\$21,819,700 of the fiscal year 2006-2007 general fund appropriations are contingent on a combination of fee increases and a new line item for the sale of \$18,500,900 in delinquent property tax receivables. Although there will be interest expense associated with this sale, Metro will receive the benefit of the revenue from these receivables in the current year rather than Fiscal Year 2007-2008. The council office would point out that the governor has not yet signed the legislation that would authorize this sale. If the sale cannot be carried out, this will create a deficit of the full \$18,500,900 in the appropriation that would need to be addressed.

A contingency of \$1,301,800 is included for EMS collection costs. This amount can be transferred to the fire department during the year if needed for ongoing funding of these collections. This is an increase of \$149,500 from the \$1,152,300 included in the budget for fiscal year 2005-2006 for this purpose. It was necessary to use this contingency during the current year, transferring the full amount to the fire department's budget in the last quarter of the year.

Other contingencies include \$5,294,000 for new facility costs for the A. A. Birch Building, Historic Courthouse, and the Richard Fulton Complex. Also included is a contingency of \$1,268,100 for anticipated increases in utility costs during the fiscal year.

This budget includes a subsidy of \$49,797,100 for the hospital authority. This is an increase of \$5,474,500 over the subsidy from fiscal year 2005-2006. This will allow general hospital to operate for the entire year and continue the repayment of their debt to the Metropolitan Government. However, this assumes that the state government will provide an additional \$7,495,884 in additional funding over the \$4,042,816 of Essential Access Payments. This state supplement has been requested, but not yet approved.

The operating subsidy for schools is increased by \$20,979,600 to \$563,230,100 for the Schools General Purpose Fund, including \$4,285,000 for funding the actuarial contribution to the Metro Teachers Pension Plan. In addition to this subsidy, there is a separate line in the ordinance to give \$7,985,900 to schools for two purposes. The first is to provide compensation for property at 601 Second Avenue South that will be used to build a new fire hall. It also provides administrative support for Metro schools by paying for general fund administrative activities. The council office would caution that any direct reimbursement for internal service costs might be considered a violation of at least the intent of A-87 to assign these costs on a consistent basis.

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#### **ORDINANCE NO. BL2006-1090** (continued)

No money is appropriated from the fund balance of the Schools General Purpose Fund for operational increases in FY07, leaving this fund with a projected balance of \$17,800,000 or 3.2% of the operational budget. According to state law, this balance cannot go below 3%.

\$10,035,900 will be appropriated from the Schools Debt Service, resulting in an unappropriated fund balance of \$56,764,100 by the end of the year.

The budget ordinance is amendable on third reading.

### **– RESOLUTIONS –**

**RESOLUTION NO. RS2006-1328** (MCCLENDON & WALLS) – This resolution appropriates \$2,194,500 from the unappropriated fund balance of the general fund of the general services district to various departments to balance their budgets for the current fiscal year. The appropriations are as follows:

- Health department: \$1,651,200 for medical services
- Health department: \$460,300 to compensate for deficiencies in the grant fund
- Transportation licensing commission: \$3,000 for fingerprinting and background checks on taxicab drivers
- District attorney: \$80,000 for mediation services

The council office recommends that this resolution be deferred to track with the operating budget ordinance.

**RESOLUTION NO. RS2006-1331** (MCCLENDON) – This resolution provides that the Metropolitan Government will sell its tax receivables to public or private parties. The state senate and house passed legislation on May 23<sup>rd</sup> and 25<sup>th</sup>, respectively, that allows Davidson County and Knox County to elect to sell their tax receivables to public or private parties. Tax receivables are defined under the new state law as the right to receive revenue from a tax secured by a lien on real property that remains unpaid after its due date (delinquent tax bills). The sale of a tax receivable is essentially the sale of the right to the cash flow at a later date. The sale of tax receivables has become very popular with municipalities, especially those in urban areas, since local governments are often very limited in their ability to generate additional revenue. This practice allows municipalities to receive cash upfront for what has been a nonperforming asset.

Pursuant to the new state law, the purchasers of the tax receivables would be entitled to payment once the taxes are collected. However, unlike many other tax receivable sale programs, Metro will still collect the taxes rather than

transferring the responsibility for collecting the taxes to the buyer of the receivables. Interest and penalties would continue to accrue on the unpaid taxes after the receivables are sold. Metro currently collects approximately 94-95% of property taxes each year, leaving 5-6% in uncollected taxes that would be sold.

Although this practice provides an influx of cash into the operating budget, there are some potential downsides. Since the receivables are sold at a discount, Metro would get the benefit of having the money now, but would ultimately not realize the full benefit of the collection on the receivables at a (continued on next page)

**RESOLUTION NO. RS2006-1331** (continued)

later date. Thus, once this practice is started, it must be continued in future fiscal years to avoid having a substantial hole in the budget. Further, there is some concern regarding the reliance upon the proceeds from the sale of tax receivables in funding recurring budget items, as opposed to using the proceeds solely for capital projects. Finally, there have been some questions among government accounting professionals as to whether the sale of tax receivables should be defined as a sale, which is reported as revenue, or as collateral against the repayment of funds borrowed by the government, which would be reported as a liability. The Governmental Accounting Standards Board (GASB) is in the process of promulgating criteria for determining whether an actual sale has occurred.

According to the mayor's proposed budget, Metro is expected to realize approximately \$18.4 million in revenue from the delinquent property taxes sold during the next fiscal year. This \$18.4 million is realized as revenue to balance the mayor's proposed budget. If this revenue is not included in the budget, the council would have to either cut \$18.4 million from the operating budget or increase the tax levy by approximately 13 cents.

As of June 14, 2006, the Tennessee general assembly website is not showing that this new state law has a public chapter number, which means that it likely has not been signed by the governor. This resolution should be deferred to track with the adoption of the operating budget.

**RESOLUTION NO. RS2006-1332** (MCCLENDON) – This resolution, as amended, approves a new fee schedule associated with the review and processing of certain zoning applications by the planning department. The Metropolitan zoning code provides that standardized fee schedules may be established to partially defray the processing and administration costs for zoning applications. Such a fee schedule must be approved by resolution of the council in order to be effective. An independent consultant hired by Metro has previously recommended fee increases for various Metro departments to help defray the full cost of services provided. The new fee schedules proposed by the planning department are based upon the full cost fee recommendation. Some of the notable fee increases are as follows:

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|---|---|
| 1. Base zone change   | Increase from \$800 to \$1,200  |
| 2. Specific Plan zone change  | Increase from \$800 to \$1,600 for up to 5 acres<br>5-100 acres: Increase from \$10 to \$100 per acre<br>100+ acres: Increase from \$5 to \$45 per acre   |
| 3. Overlay preliminary revisions<br>(includes PUDs and historic overlays) | Increase from \$600 to \$1,600 for up to 5 acres<br>5-100 acres: Increase from \$30 to \$100 per acre<br>100-500 acres: Increase from \$15 to \$45 an acre<br>500+ acres: Increase from \$7.50 to \$25 per acre |

Planning commission fees were last increased in 2004. This increase would bring the fees up to a level that would allow for full-cost recovery. Attached to this analysis is a list of zone change application fees for comparable and surrounding cities that was included in the consultant's report.

Since this fee increase is necessary to balance the mayor's proposed budget, failure to approve the fee increase, as amended, will necessitate a reduction in the planning department's operating budget (or some other general fund department's budget), or an increase in the tax levy, to offset the lower revenues.

The council office recommends that this resolution be deferred to track with the operating budget.

**RESOLUTION NO. RS2006-1333** (MCCLENDON) – This resolution provides additional compensation to the Davidson county circuit court clerk and criminal court clerk in an amount equal to ten percent of their base salary. State law sets the minimum salaries for county officials based upon the population of the county and a complicated escalator formula tied to the general increases in state employees' compensation. The county officials include the sheriff, the property assessor, the county clerk, the court clerks, the trustee and the register of deeds. State law provides that county officials must all receive the same salary, with two important exceptions for the sheriff and certain court clerks.

One of these exceptions is for court clerks that serve more than one court. Such court clerks may receive additional compensation in the amount of ten percent of their base salary to compensate them for "the additional duties and time required to serve multiple courts." The Davidson County circuit court clerk serves the eight circuit courts, the civil division of the general sessions court, and the traffic court. The criminal court clerk serves the criminal division of both the general sessions court and the state trial court. This resolution increases the salaries for these two positions by ten percent, as allowed by state law. The current salary for the court clerks is approximately \$103,000.

The council office is of the opinion that adoption of this resolution will automatically result in a salary increase for the sheriff, since state law provides that the salary for the sheriff must be at least ten percent higher than the other general officers of the county. In fact, this law was just amended effective May 4, 2006 to clarify that any additional compensation provided to the court clerks is used in calculating the sheriff's salary.

The council office recommends that this resolution be deferred to track with the operating budget to ensure funds are available in the operating budget to pay for these raises.

**RESOLUTION NO. RS2006-1353** (MCCLENDON) – This resolution approves an amended final agreement to compromise and settle the claim of the U.S. department of justice against the Metropolitan Government regarding compliance with the Americans with Disabilities Act (ADA). The Council approved an interim agreement with the department of justice pursuant to Resolution No. RS2000-280, whereby Metro agreed to review its policies and procedures under the ADA, to survey existing facilities, and to make modifications to certain physical structures by December 21, 2003. The council approved a final agreement with the justice department in June 2003 requiring Metro to comply with applicable ADA laws regarding structural changes in existing facilities, new construction, and public rights-of-way. The final agreement was set to terminate once the plan has been implemented, or on June 1, 2006, whichever came first. This resolution approves the extension of the agreement until June 1, 2009.

**RESOLUTION NO. RS2006-1354** (MCCLENDON) – This resolution approves a grant in the amount of \$117,656 from the state emergency management agency to the Metropolitan Government to provide supplemental funding for local emergency management assistance. These federal pass-through funds are used to partially fund the operations of the mayor's office of emergency management. The term of the grant is from October 1, 2005 through September 20, 2006.

**RESOLUTION NO. RS2006-1355** (DOZIER & MCCLENDON) – This resolution approves a grant in the amount of \$599,945.56 from the state emergency management agency to the mayor's office of emergency management for the buffer zone protection program. These federal pass-through funds (continued on next page)

**RESOLUTION NO. RS2006-1355** (continued)

will be used to implement the buffer zone protection program plans to develop protective measures that make it more difficult for terrorists to conduct surveillance or launch attacks within the immediate vicinity of critical infrastructure sites. The majority of these funds are for the purchase of a "Forward Looking Infrared System (FLIR)." The term of the grant is from April 1, 2005 through August 31, 2006, with a possible extension of four additional one-year periods.

**RESOLUTION NO. RS2006-1356** (MCCLENDON) – This resolution approves an application for a grant in the amount of \$456,360 from the U.S. department of homeland security to enhance the Metropolitan Government's delivery of advanced life support. If awarded, these funds will be used to purchase EMS equipment and to provide training to personnel about treating patients in chemical, biological, radiological, nuclear, and explosive incidents. The equipment to be purchased includes CPR mannequins, stethoscopes, computer equipment, an arrhythmia simulator, medical bags, and an all-terrain vehicle designed to enter areas of downtown Nashville during crowded special events. The funds will also be used to pay the salary of a departmental fitness director to setup training programs for EMS personnel. There will be a required local match of \$114,090 once the grant is awarded.

**RESOLUTION NO. RS2006-1357** (DOZIER & MCCLENDON) – This resolution approves a second amendment to a grant in the in the amount of \$256,000 from the U.S. department of justice to the Metropolitan police department for gang resistance training. These funds are for the gang resistance education and training (GREAT) program, which uses law enforcement officers to provide instruction to school-aged children in life-skill competencies, gang awareness, and anti-violence techniques. This resolution extends the term of the grant until September 30, 2006.

**RESOLUTION NO. RS2006-1358** (DOZIER & MCCLENDON) – This resolution approves an Edward Byrne Memorial Justice Assistance Grant in the amount of \$579,675 from the U.S. department of justice to the Metropolitan Government. These federal funds are to benefit the following departments: police, drug court, sheriff, public schools, district attorney, justice information system (JIS), juvenile court, public defender, and parks. The grant funds will be distributed as follows:

1. **District attorney:** \$58,729.13 to hire two part-time "cold case" investigators to work under the direction of the Grand Jury.
2. **Public defender:** \$9,610.48 to employ a part-time social worker to assist the attorneys assigned to the juvenile division.
3. **Juvenile court:** \$18,042.47 to retain a warrant officer who will function as a "gang specialist".
4. **Drug court:** \$86,709 for repair and maintenance, equipment, drug tests, and supplies for the drug court program.
5. **JIS:** \$29,273.79 to expand database backup and storage systems.
6. **Sheriff:** \$73,694.58 to employ a community outreach director.

7. **Police:** \$168,869.67 for technology purchases to enhance officers' ability to respond to calls for service.
8. **Schools:** \$66,593.46 to install additional closed-circuit television cameras in schools.
9. **Parks:** \$10,184.25 to purchase computers for the patrol vehicles.

**RESOLUTION NO. RS2006-1359** (MCCLENDON) – This resolution approves an application for a grant in the amount of \$9,000 from the Tennessee commission on children and youth to the juvenile court for employee training. These grant funds will be used to provide training opportunities for staff in the form of conferences, seminars, and community training.

**RESOLUTION NO. RS2006-1360** (MURRAY & MCCLENDON) – This resolution approves a grant in the amount of \$9,740 from the state department of agriculture to the Nashville farmers' market. These funds will be used to purchase landscaping, benches, umbrellas, and advertising for a local farmers retail section. This area is specifically reserved for local farmers and producers, and is open on Sunday afternoons. Recent surveys conducted by the farmers' market revealed that consumers wanted a place where they could buy their produce directly from the farmers that grow the product, rather than from wholesalers.

**RESOLUTION NOS. RS2006-1361 THRU RS2006-1366** (WALLS & MCCLENDON) – These six resolutions approve grants between the Metropolitan board of health and three nonprofit organizations to provide community prevention intervention services for children in Davidson County. The programs funded by these grants seek to reduce teen substance use, pregnancy, violence, and school dropout rates. These are a continuation of grants approved by the council in March 2006 for the current fiscal year. The grant terms are from July 1, 2006 through June 30, 2007.

**Resolution No. RS2006-1361** approves a grant agreement in the amount of \$80,000 between the Metropolitan board of health and Center for Youth Issues to provide community prevention intervention services for children in the East region of Davidson County. These grant funds will be used to implement the STARS (Students Taking a Right Stand) program for middle school students.

**Resolution No. RS2006-1362** approves a grant agreement in the amount of \$80,000 between the Metropolitan board of health and Center for Youth Issues to provide the STARS program for children in the North region of Davidson County.

**Resolution No. RS2006-1363** approves a grant agreement in the amount of \$80,000 between the Metropolitan board of health and Center for Youth Issues to provide the STARS program for children in the South region of Davidson County.

**Resolution No. RS2006-1364** approves a grant agreement in the amount of \$80,000 between the Metropolitan board of health and New Vision, Inc., for a therapeutic mentoring program. The program focuses on helping youth and their families apply skills in order to maintain a healthy lifestyle.

**Resolution No. RS2006-1365** approves a grant agreement in the amount of \$80,000 between the Metropolitan board of health and Oasis Center to provide in-school prevention intervention services to students at Bailey Middle School. The purpose of this program is to help youth learn ways to build positive relationships, be involved in extra-curricular activities, and to decrease favorable attitudes toward problem behavior.

**Resolution No. RS2006-1366** approves a grant agreement in the amount of \$80,000 between the Metropolitan board of health and Oasis Center to provide in-school prevention intervention services to students at John Early Magnet School. This is the same program that is the subject matter of Resolution No. RS2006-1365.

**RESOLUTION NO. RS2006-1367** (WALLS & MCCLENDON) – This resolution approves a grant in the amount of \$6,100, as amended, from the Tennessee Primary Care Association to the Metropolitan department of health for hosting dental students from Meharry School of Dentistry. This grant will be used to fund a stipend for two Meharry dental students participating in the SEARCH program. The SEARCH program gives students within the various health professions community-oriented rotations in medically underserved health professional shortage areas of Tennessee. The term of the grant is from September 1, 2005 through August 31, 2006. The original grant was in the amount of \$3,600. The amendment increases the grant award to \$6,100.

**RESOLUTION NO. RS2006-1368** (WALLS & MCCLENDON) – This resolution approves an amendment to an annual grant from the state department of health to the Metropolitan health department for alcohol and drug abuse diagnosis, prevention, rehabilitation, and treatment services. The original grant, which extends through June 30, 2006, was in the amount of \$130,200. This amendment increases the amount of the grant by \$65,000 for a new total of \$195,200.

**RESOLUTION NO. RS2006-1369** (WALLS & MCCLENDON) – This resolution approves an amendment to a grant from the state department of health to the Metropolitan board of health to provide family planning services in accordance with state law. The original grant was in the amount of \$370,000 with a term expiring June 30, 2006. This amendment increases the grant award by \$29,900 for a new grant total of \$399,900.

**RESOLUTION NOS. RS2006-1370 & RS2006-1371** (FORKUM & MCCLENDON) – These two resolutions approve grants from the Metropolitan development and housing agency (MDHA) to the Metropolitan board of parks and recreation for summer enrichment programs for youth. MDHA has funding available for these activities as part of the federal community development block grant program.

**Resolution No. RS2006-1370** approves a grant in the amount of \$20,000 for a summer enrichment program. These funds will be used for the "Dance-A-Palooza" program, which consists of ballroom dance training for children ages 10-15. The program will be offered at the Napier, South Inglewood, Kirkpatrick, McCabe, Hadley, East, Sevier, Antioch, and Looby community centers.

**Resolution No. RS2006-1371** approves a grant in the amount of \$20,000 for an Outdoor Environmental Recreation program. This program consists of educational classes, outdoor recreational activities, field trips and entertainment for low-income youth from the areas surrounding the Napier, Shelby, Morgan, and Coleman community centers.

**RESOLUTION NO. RS2006-1372** (WALLS & MCCLENDON) – This resolution approves an application for a Refugee Social Services Grant in the amount of \$456,360 from the state department of human services to the Metropolitan Government. These federal funds will be administered by the Nashville career advancement center and will be used to provide employment related services to refugees in the Nashville area. This program will provide career assessment, job training, and job placement support to refugee participants.

**RESOLUTION NO. RS2006-1373** (TOLER & MCCLENDON) – This resolution approves an amendment to an annual grant from the state department of environment and conservation to the department of public works for the purpose of collecting and disposing of waste tires from residents. Metro operates this program without requiring tip fees for the disposal of the tires. The majority of the tires collected under this program have typically been disposed of by Metro's subcontractor, and only a small portion of tires have been collected at Metro's convenience centers. This resolution extends the term of the grant until June 30, 2007, and provides additional funding in the amount of \$450,000 for this program.

**RESOLUTION NO. RS2006-1374** (WALLACE & DOZIER) – This resolution approves an amendment to a lease agreement between the Metropolitan Government and Signature Center, G.P. for the lease of 4,945 feet of office space located in the building known located at 1900 Church Street for use by the police advocacy support services (PASS) division. This amendment extends the term for five years beginning July 1, 2006, and ending June 30, 2011. The base rent will be \$19.89 per square foot over for the next five years, which equates to \$8,196.34 monthly. Signature Center, G.P. will also provide Metro with a \$12,000 allowance for improvements to the leased premises. Both Metro and Signature Center, G.P. will have a one-time option to terminate the lease at the end of the first eighteen months of the extension period. This lease amendment has been referred to the planning commission.

**RESOLUTION NO. RS2006-1375** (TYGARD, DREAD & ISABEL) – This resolution appropriates \$25,000 from the general fund reserve fund (4% fund) to the general services department for the purchase of automatic external defibrillators (AEDs) and associated training equipment. Four percent funds may only be used for the purchase of equipment and repairs to buildings. The balance in the general fund reserve fund as of June 14, 2006, was \$1,679,564. This assumes unrealized revenue for fiscal year 2006 in the amount of \$21,037,500. A copy of the supporting information sheets required by Ordinance No. O86-1534 is attached to this analysis.

**RESOLUTION NO. RS2006-1376** (MCCLENDON) – This resolution authorizes the department of law to accept \$10,328.23 in settlement of the Metropolitan Government's property damage claim against Sean Hayes. On January 19, 2006, a Metro police officer was traveling east on Charlotte Avenue when his police car was struck by a vehicle driven by Mr. Hayes, who failed to stop at the flashing red light at 8<sup>th</sup> Avenue North. The accident resulted in \$10,328.23 in damage to the 2004 Chevrolet Impala police vehicle. The officer was injured in the accident, and his medical bills and lost wages will be addressed at a later date. The department of law recommends settling the property damage portion of the claim for the full repair cost to the vehicle.

**RESOLUTION NO. RS2006-1377** (MCCLENDON) – This resolution authorizes the department of law to compromise and settle the claim of Assegepech Zeluel against the Metropolitan Government in the amount of \$6,933.17. On August 16, 2005, Ms. Zeluel was traveling on I-40 West near Elm Hill Pike when her vehicle was rear-ended by a vehicle driven by a Metro library employee. Ms. Zeluel sustained a chest strain, blunt abdominal trauma, and was diagnosed with a strained back as a result of this accident, incurring \$4,279.95 in medical bills. The accident also resulted in \$1,108.17 in damage to her 2000 GMC Jimmy. The department of law recommends settling this claim for the amount of the medical bills and property damage, plus \$1,545.05 in pain and suffering. The Metro employee involved in this accident received an oral reprimand.

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**- BILLS ON SECOND READING -**

**ORDINANCE NO. BL2006-998** (WALLACE & RYMAN) – This ordinance amends the Metropolitan Code of Laws to prohibit any temporary or permanent encroachment in the public right-of-way without a permit from Metro. The Code currently technically prohibits persons from placing encroachments into the right-of-way except when permitted by Metro. The Code provides that the council may grant encroachments within the right-of-way by ordinance, and may grant aerial encroachments over the right-of-way by resolution. However, the ordinance does not define the term “encroachment”. Thus, an argument can be made that temporary encroachments, such as news racks, do not require a permit from Metro.

This ordinance would require that a permit be obtained from Metro for all permanent or temporary encroachments in the right-of-way, including signs, sandwich boards, vegetation, news racks, fences, and walls. Any person or entity requesting such an encroachment would be required to pay a permit fee of \$100 to Metro, and must provide a public liability insurance policy in an amount directed by the department of law holding Metro harmless from claims or damages arising from the installation or maintenance of the encroachment.

**ORDINANCE NOS. BL2006-1062 & BL2006-1063** (DOZIER) – These two ordinances amend the taxicab provisions of the Metropolitan Code of Laws at the request of the transportation licensing commission.

**Ordinance No. BL2006-1062** amends the Metro Code to allow taxicab drivers to discharge passengers away from the curb whenever access to curb space is blocked by parked vehicles. The Code currently requires taxicab drivers to discharge passengers only when they are able to pull up next to a curb. Since many vehicles park on the street in the downtown area, it is often difficult for taxicab drivers to find open curb space to discharge passengers. This ordinance would allow drivers in such a case to pull to the far right hand lane and discharge passengers from the right side of the vehicle.

**Ordinance No. BL2006-1063** amends the Metro Code to allow the transportation licensing commission to set temporary fuel surcharges. The Metro Code sets the maximum fares that taxicabs can charge passengers, but does not include any provisions enabling the commission to set additional fees. Due to the high cost of gasoline, the transportation licensing commission desires the authority to authorize a temporary fuel charge in accordance with rules established by the commission.

The council office recommends that this ordinance be amended to either place a maximum percentage increase or require approval of the amount of the surcharge by resolution.

**ORDINANCE NO. BL2006-1066** (MCCLENDON) – This ordinance amends the Metropolitan Code of Laws to require property owners to obtain a permit bond for certain residential construction and repairs. The building code currently only requires contractors to post a permit bond for construction, demolition, and repair work. Although individual property owners performing the work themselves must obtain a building permit, they are not required to post a permit bond.

This ordinance would require residential property owners that have been granted more than two extensions for a permit to construct, erect, alter or repair his/her residential building or structure to post a bond to ensure that the work is completed in an adequate and timely manner.

**ORDINANCE NO. BL2006-1068** (ISABEL) – This ordinance amends the Metropolitan Code of Laws to limit the duration portable storage units may remain on residential property. This ordinance applies to portable on demand storage units, also known as “PODs”, that have become a popular tool in recent years to assist persons in moving from one residence to another. This ordinance would limit the duration PODs can be located on residential property to thirty days.

**ORDINANCE NO. BL2006-1069** (CRAFTON) – This ordinance amends the building code provisions of the Metro Code of Laws to prohibit the issuance of a building permit if the applicant or property owner has violated a stop work order within the past year for the property for which the permit is sought, or has violated T.C.A. § 7-51-1201 pertaining to the demolition of historic buildings. The building code provides that the director of codes administration may issue a stop work order in writing if work on any building or structure is being done contrary to the building code or in a dangerous or unsafe manner. When an emergency exists, the director is not required to give written notice of the stop work order. Further, state law provides that no residential structure may be demolished without approval by the local legislative body if the structure was (1) constructed before 1865; (2) is repairable at a reasonable cost; and (3) the structure has a historical significance besides age itself.

This ordinance would prohibit any applicant from obtaining a building permit if they have been found by a court to have violated a stop work order within the past twelve months for the property for which the permit is sought, or if they have violated state law by demolishing a historic residential structure on the property for which the permit is sought within the past year.

**ORDINANCE NO. BL2006-1079** (WALLACE) – This ordinance declares the Municipal Garage located at 413 Fifth Avenue North to be surplus and authorizes the director of public property administration to sell the property in accordance with the standard procedures for the disposition of surplus property. This property will be deeded over to the Metropolitan transit authority for construction of the new central bus terminal. According to Metro real property services, additional property will need to be acquired for this project at a later date.

This ordinance has been approved by the planning commission.

**ORDINANCE NO. BL2006-1091** (MCCLENDON) – This ordinance adopts the property tax levy for the fiscal year 2006-2007. The Metropolitan Charter requires that the council's next order of business upon adopting the annual operating budget is to adopt a tax levy that fully funds the operating budget. The property tax proposed by the mayor is in assessed value, which represents \$4.04 per \$100 assessed value in the general services district (GSD) and an additional \$0.65 per \$100 assessed value in the urban services district (USD), for a total tax of \$4.69 in the USD.

This proposed property tax levy shifts seven cents from the debt service fund of the GSD to the general fund of the GSD to provide additional funding for the general government operations. This shift is estimated to be the equivalent of \$10.5 million.

**ORDINANCE NOS. BL2006-1092 through BL2006-1094** (MCCLENDON) – These three ordinances approve increases in various fees charged by the Metropolitan Government to generate additional revenue needed to balance the mayor's proposed operating budget. The mayor's proposed (continued on next page)

**ORDINANCE NOS. BL2006-1092 through BL2006-1094** (continued)

budget relies on approximately \$23.8 in “revenue enhancements” in order to balance the budget. The majority of these revenue enhancements consist of \$18.5 million in property tax receivables to be sold, which is the subject matter of Resolution No. RS2006-1331 currently pending with the council. These three ordinances involve increases in traffic school fees and police tow-in lot storage fees, as well as an ordinance to charge fees for processing payments made to the Metropolitan Government by credit card. If these fees are not increased, the council will have to either make reductions in the budget to offset the lost revenues or increase the tax levy.

**Ordinance No. BL2006-1092** approves an increase in the traffic school fees and probation supervision fees. The fee for attending traffic school will increase from \$55 to \$65. The fee was originally set at \$50 in 1999 and increased to \$55 in 2004. The fee for probation supervision will increase from \$20 to \$25 per month. The purpose of this fee is to partially defray the cost of operating the division of probation. This fee has not been increased since it was established in 1991. This ordinance is expected to result in \$516,000 in increased revenue.

**Ordinance No. BL2006-1093** authorizes the Metropolitan Government to charge a 2.5% processing fee for payments made by credit or debit card for taxes, licenses, fines and fees payable to Metro. State law mandates that local governments collect a credit or debit card processing fee not to exceed 5% when collecting funds on behalf of the government. However, this state law allows local governments to waive this processing fee, which the Metropolitan Government elected to do by ordinance in 2001. This ordinance amends the 2001 ordinance to partially repeal the fee waiver for processing the credit and debit card payments.

This ordinance stems from an abuse by mortgage companies that pay a large amount of property taxes by credit card. The credit card companies charge a fee for certain payments made by credit card, which Metro is currently having to absorb. This ordinance repeals the credit and debit card processing fee waiver except for point of sale transactions. A point of sale transaction is where the goods or services are purchased directly from Metro face-to-face or “over the counter”, such as payment for greens fees at Metro golf courses. For all other non-face-to-face transactions, such as payments made by phone or Internet, there will be a 2.5% processing fee added when paying by credit or debit card. This is expected to result in \$1 million in increased revenue for fiscal year 2007.

**Ordinance No. BL2006-1094** increases the police department impound lot (tow-in lot) storage fees. The Code currently provides a daily charge for motor vehicles stored at the tow-in lot. The daily storage fee is \$10 for motorcycles and \$15 for automobiles. There are also daily storage fees for boats, tractors and motor homes. There is no storage fee for the first two hours and there is no storage fee for recovered stolen vehicles, provided the owner claims the vehicle within twenty-four hours after being notified by the police department. The daily storage fees were last increased in 2005.

In addition to the daily storage fee, this ordinance would establish a flat fee of \$200 per item stored in the tow-in lot. The \$200 fee would not be charged for items left two hours or less, nor would it apply to stolen vehicles that are recovered within 24 hours. Thus, if this ordinance is enacted, the owner of a vehicle left at the tow-in lot for three hours would pay \$215, as opposed to the \$15 the owner would currently have to pay.

(continued on next page)

**ORDINANCE NOS. BL2006-1092 through BL2006-1094** (continued)

This ordinance amends the wrecker licensing code provisions to enable this flat fee to be charged at the tow-in lot. The council office would point out that by amending this section of the Code, private wrecker companies would also be allowed to charge this \$200 flat fee, in addition to the daily storage rate, for storing vehicles at their private lots. In order to pass constitutional muster, wrecker licensing ordinances and associated fees must be applied uniformly. An ordinance that allows the government to charge a flat storage fee at the tow-in lot, but does not allow private wrecker firms to do the same would likely be subject to a legal challenge. Further, the Metropolitan Government legally cannot impose fees that exceed the cost for providing the government service. There is no documentation attached to this ordinance that gives a cost basis to justify this substantial fee increase. The council office would advise the council not to enact this ordinance until such documentation is provided.

**ORDINANCE NO. BL2006-1095** (MCLENDON) – This ordinance amends the Metropolitan Code of Laws regarding water and sewer department charges and fees. According to the administration, the purpose of this ordinance is to avoid an approximate 22% general water rate increase. The “revenue enhancements” to be realized by this ordinance are expected to total \$12.25 million in fiscal year 2007.

This ordinance provides the following fee modifications:

1. The ordinance repeals the existing provision in the Code that charges businesses served by more than one water meter as though the water was received through one meter. This change is estimated to generate \$2.19 million in annual revenue for the water department.
2. The ordinance adds a new “capacity charge” of \$1,000 on all new single-family equivalent connections to the public water supply system. This fee is expected to generate \$2.56 million in new revenue.
3. The ordinance increases the capacity charge on all new single-family equivalent connections to the public sewer system from \$500 to \$2,000 per connection. This change is estimated to generate \$7.5 million in annual revenue for the water department.

This ordinance would also allow the water department to read meters on a quarterly basis, rather than monthly. Customers would still be billed monthly based upon their estimated usage. This change in procedure is expected to save \$450,000 annually.

**ORDINANCE NO. BL2006-1096** (BRILEY & RYMAN) – This ordinance amends the Metropolitan Code of Laws to require the Metropolitan employee benefit board to provide an annual report to the council regarding the Metro pension system. Such report would be due on December 31 and is to include the following information from the previous fiscal year:

1. The annual contribution made by Metro to the pension system.
2. The most recent actuarial valuation report of the pension plans and a summary of the key plan provisions.
3. The total number, average age, average years of service, and average salary of police department personnel.
4. The total number of police pensioners, along with the total monthly or annual benefit amounts.
5. The normal cost of police pensioners within the Metro pension system.

**ORDINANCE NO. BL2006-1097** (COLEMAN) – This ordinance amends the Metropolitan Code of Laws to require that apprentice electricians be licensed, and to require that apprentice electricians be enrolled in a nationally accredited apprenticeship program. In June 2004, the council enacted a

similar ordinance for apprentice plumbers. This ordinance essentially mirrors the prior plumber ordinance but changes a few words to try and make it applicable to electricians.

The Code currently requires all electrical contractors, master electricians, equipment contractors, electrical equipment installers, low-voltage contractors and low-voltage wiring installers to obtain a license from the department of codes administration. The Code does not require apprentice electricians to obtain a license. This ordinance purports to require apprentice electricians to be licensed, although the ordinance really only adds a definition of apprentice electrician to the Code. "Apprentice electrician" is defined as one enrolled in an apprenticeship registered with the U.S. department of labor, bureau of apprenticeship and training, or any nationally accredited apprenticeship program, which consists of a minimum 8,000 hours of practical experience combined with a minimum of 600 hours of classroom training. However, since this ordinance does not require a license for apprentice electricians, this definition is merely superfluous. The council office recommends that this ordinance be amended to add licensing provisions for apprentice electricians to section 6.20.010 of the code if this is the council's intent.

This ordinance also incorporates the grandfather language from the plumber licensing ordinance and makes it applicable to master electricians, electrical equipment installers and low-voltage wiring installers. The council office is of the opinion that this provision is not needed, since this ordinance does not modify the licensing requirements for such occupations. If the council desires to include some form of a grandfather provision in this ordinance, the ordinance should be amended to adequately accomplish this.

Finally, this ordinance includes additional penalty provisions for violations that are copied almost verbatim from the plumber licensing ordinance. The Code currently provides that the board of electrical examiners and appeals has the authority to revoke or suspend a certificate upon proof that a plumber violated a rule or regulation of the board, practiced fraud or deception in making an application, is incompetent to perform electrician services, has allowed his/her certificate to be used by another to perform electrical services, or is guilty of other unprofessional or dishonorable conduct. This ordinance adds two additional grounds justifying suspension or revocation: (1) Where an electrician or electrical contractor permits himself or his company to represent itself as being in the business of electrical services if it doesn't employ a master electrician; and (2) Knowingly took out a permit for electrical work to be performed by a person without a license. In addition to suspension or revocation, this ordinance also authorizes the board to impose penalties, including but not limited to stop work orders, fines, and suspension of work privileges. The ordinance further provides that the department of codes administration shall have the authority to enforce the applicable Code provisions through the use of work-site inspections and unannounced work-place inspections.

This ordinance should also be amended to correct a section number that refers to the plumber licensing chapter rather than the chapter applicable to electricians.

**ORDINANCE NO. BL2006-1098** (JAMESON) – This ordinance amends the Metropolitan Code of Laws to prohibit persons convicted of driving under the influence (DUI) from obtaining a beer permit. The Code currently prohibits a person that has been convicted of a crime of moral turpitude within the past ten years from obtaining a beer permit. The beer board defines "crimes of moral turpitude" as premeditated murder, embezzlement, the sale of illegal drugs, and all sex crimes. State law gives (continued on next page)

**ORDINANCE NO. BL2006-1098** (continued)

broad authority to local governments to regulate the sale of beer, including the ability to pass ordinances governing the issuance of licenses to sell beer. The Tennessee attorney general recently

opined that this broad authority includes prohibiting persons convicted of DUI from obtaining a beer permit.

There is a housekeeping amendment to this ordinance to clarify that the prohibition on obtaining a beer permit would be for a three year period following a DUI conviction.

**ORDINANCE NO. BL2006-1099** (MCCLENDON & JAMESON) – This ordinance approves a contract between the state of Tennessee and the Metropolitan Government regarding the installation of safety communication equipment for the district energy system (DES). The DES is used to heat and cool various downtown buildings, including several buildings owned and operated by the state. The DES was commissioned in 2001 to replace the thermal transfer facility. The state is one of the largest customers of the DES. This ordinance approves a contract for the installation of a mine radio communications system in the state steam tunnel. The project is estimated to take six weeks to complete at a total cost of \$40,509. Pursuant to this contract, the state will pay \$20,000 toward the cost of installing the equipment. Future amendments to this agreement may be approved by resolution of the council.

**ORDINANCE NOS. BL2006-1100, BL2006 1101 & BL2006-1102** – These three ordinances authorize the Metropolitan Government to enter into participation agreements with private developers to provide public sewer service to new subdivisions in Davidson and Williamson Counties. The developers will be required to contribute \$2,000 per single-family home connection toward the projects in aid of construction. These funds are to be deposited into the water and sewer extension and replacement fund. These are typical participation agreements entered into by the Metropolitan Government, acting through the department of water and sewerage services, whereby private property owners and/or developers contribute a portion of the cost to extend or upgrade public water and sewer service.

The council office would point out that if Ordinance No. BL2006-1095 is adopted, which is also on second reading, all developers would be required to pay a \$2,000 capacity charge per single-family connection to the sewer system.

**Ordinance No. BL2006-1100** (Toler) approves a participation agreement with The Jones Company to provide public sewer service to the Nolen Park subdivision in Williamson County. The developer has agreed to contribute \$148,000 toward the cost of the project in aid of construction for a total of 74 single-family home connections.

**Ordinance No. BL2006-1101** (Toler & McClendon) approves a participation agreement with Burkitt Place Development, LLC to provide public sewer service to the Burkitt Place subdivision in Davidson and Williamson Counties. Burkitt Place Development, LLC has agreed to contribute \$100,000 toward the cost of the project in aid of construction for a total of 50 single-family home connections.

**Ordinance No. BL2006-1102** (Toler & McClendon) approves a participation agreement with Centex Homes to provide public sewer service to the Villas of Concord Place subdivision in Davidson County. Centex Homes has agreed to contribute \$138,000 toward the cost of the project in aid of construction for a total of 69 single-family home connections.

**ORDINANCE NO. BL2006-1103** (WHITMORE & WALLACE) – This ordinance renames a portion of 20<sup>th</sup> Avenue North between Charlotte Avenue and a dead end north of Warner Street as “Spruce Street”. This name change has been requested by Spruce Street Baptist Church, which was originally located on Spruce Street in the downtown area but was forced to move to its present location on 20<sup>th</sup>

Avenue North due to urban revitalization projects in 1955. This ordinance would allow the street on which the church is located to correspond to its name. Signatures of the affected property owners are on file with the department of public works.

This ordinance has been approved by the planning commission.

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**- BILLS ON THIRD READING -**

**ORDINANCE NO. BL2006-1013** (TYGARD, CRADDOCK & GOTTO) – This ordinance, as amended, would require that all procurement contracts for goods or services with an annual payment of more than \$500,000, or an aggregate total payment of more than \$3 million over the life of the contract, and which are awarded to a contractor other than the lowest bidder, be approved by resolution of the council. Contracts for professional or consulting services would be exempt from this ordinance. The Code provides that professional services contracts, which include legal services, medical services, accounting services, fiscal agents, financial advisors, architects, and engineers, be awarded on the basis of “recognized competence and integrity”, not based on the lowest cost to Metro. This ordinance would only apply to the award of initial contracts that are above the threshold amounts, not to previously awarded contracts that might exceed the amounts due to change orders.

As provided in Chapter 4.12 of the Metropolitan Code of Laws, the Metropolitan Government procurement system is based upon competitive sealed bidding and competitive sealed proposals. Competitive bidding is used for the procurement of most tangible goods, where an apples-to-apples comparison can be made between vendors selling an identical product. Under the competitive bid system, the contract is awarded to the bidder that can supply the goods at the lowest cost to Metro. On the other hand, when the purchasing agent determines that the use of competitive bidding is either not practicable or advantageous to the Metropolitan Government, a contract may be entered proposals where factors in addition to price are considered. While the awarding of most contracts is at the discretion of the purchasing agent, the Code currently requires that contracts for the collection and disposal of solid waste with a contract amount in excess of \$500,000 and contracts for the privatization of government services be approved by resolution of the council.

This ordinance was filed in response to press reports about the intent to award a contract for security services at Metro facilities to Wackenhut Corp., whose bid was approximately \$900,000 more per year than the other qualified bidders. The entire RFP has subsequently been rescinded by the purchasing agent and a new RFP process will be initiated.

The council office would remind members of council that the Charter grants the responsibility for the procurement of government goods and services to the purchasing agent. Adoption of this ordinance could be deemed to be an unlawful attempt by the council to remove authority given to the purchasing agent by the Charter. While the Code does require that privatization and solid waste contracts be approved by the council, these are related to policy issues that directly impact employees and services provided by the Metropolitan Government.

**ORDINANCE NO. BL2006-1054** (JAMESON & RYMAN) – This ordinance amends the Metropolitan Code of Laws to change the definition of “disability” as it relates to disability pensions for Metro employees. Under the current code, if an employee’s termination occurs because of a permanent disability while he is a fireman or policeman, or while in the line of duty (for all other Metro employees), the employee is deemed to be “disabled” if he/she is unable during a two year period following the disability to perform the duties of any occupation in the Metropolitan Government which is offered at a salary that is equal to or higher than he/she was receiving at the time of the disability. After the two year period, the person is deemed to be disabled if he/she is unable to perform any job, whether with the Metropolitan Government or not, at a salary that, when added to the disability payments, would result in total income that is greater than his/her frozen earnings at the time of disability. Police officers and firefighters are considered disabled if they can no longer perform the (continued on next page)



**ORDINANCE NO. BL2006-1054** (continued)

duties of a police officer or firefighter. Any employee whose termination occurs because of a disability that is not related to an in-line-of-duty injury, and who is not a policeman or fireman, is deemed disabled if he/she becomes permanently disabled as a result of an injury, disease, or mental disorder so that he/she is unable during the continuation of the disability to perform any job, whether with the Metropolitan Government or not, at a salary that, when added to the disability payments, would result in total income that is greater than his/her frozen earnings at the time of disability.

The primary purpose of this ordinance is to clarify that employees are disabled if they are unable to work at a Metro job at the same or greater salary than at the time they became disabled. Disability pensioners would no longer be required to show that they could not work anywhere. To accomplish this, the ordinance makes the following changes to the definition of "disability":

1. The words "permanently disabled" are removed.
2. The two year time period distinction is removed from the definition of "disability", to conform to the prior interpretation given by the employee benefit board. Thus, a policeman or fireman, or another Metro employee injured in the line of duty, would be deemed disabled if during the continuation of the disability he/she was unable to perform the duties of any job within the Metropolitan Government at a rate of pay equal to or higher than he/she was making at the time of the disability. After reviewing the continuing disability, such person would be deemed disabled if it is determined that they are unable to engage in any occupation within the Metropolitan Government at a salary that, when added to the disability payments, would result in total income that is greater than his/her frozen earnings at the time of disability.
3. For Metro employees, other than police officers or fire fighters, that suffer a disability as a result of a disease or injury not occurring in the line of duty, such employees will be deemed disabled if they are incapable of engaging in any occupation in the Metropolitan Government which is offered at a rate of earnings that, when added to the disability payments, would result in total income that is greater than their frozen earnings at the time of disability.

Pursuant to Rule 36 of the Council Rules of Procedure, any legislation that affects the Metro pension plan must have an actuarial study before the matter can be considered by the council. The study and formulating committee has recommended this change in the definition of disability, and an actuarial study determination of the cost of the changes has been made. The employee benefit board unanimously approved this change in the definition of disability.